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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,220	08/08/2003	Gary Carpenter	63823.0102	3336

7590

03/17/2006

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DALLAS, TX 75240

EXAMINER
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CHEN, JOSE V

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/637,220	<b>Applicant(s)</b> CARPENTER ET AL.	
	<b>Examiner</b> José V. Chen	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) 7,-9, 15, 17-51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,10-14 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>08/08/03</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of fig. 7, claims 1-6, 10, 11, 12-14, 16 in the reply filed on 01/09/06 is acknowledged. The traversal is on the ground(s) that the restriction to one singular species is unreasonable. This is not found persuasive because this is not a proper argument as stated in the last Office Action.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 10, 12, 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Wallace. The patent to Wallace teaches structure as claimed including a pallet a first support member (26) having a hole through which an appliance is fastened with a first retaining bolt (61), a second support member (38) having a hole through which the appliance is fastened with a second retaining bolt, a first cross member (12), a second cross member (14).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3637

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3, 4, 11, 13, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace. The patent to Wallace teaches structure substantially as claimed as discussed above including the structure made of plastics, the only difference being the specific plastics, the use of adhesives, and the method of making. The use of polypropylene, polyethylene are well known in the manufacturing of plastic structures as is the use of adhesives for alternative connection structure. Applicant is given judicial notice of such. Further, the particular method of making, carries no weight in a utility claim. However, the use of an extrusion process, injection molding, rotary molding in the making of plastics is well known. It would have been obvious and well within the level of one having ordinary skill in the art to provide particular known plastic materials and connection structure and to use well known methods to make such, thereby providing structure as claimed.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace as applied to the claims above, and further in view of Woods. The patent to Wallace

teaches structure substantially as claimed as discussed above including support and cross members, the only difference being that the members are not hollow. However, the patent to Woods teaches the use of providing hollow structural members to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Wallace to include hollow structural members, as taught by Woods since such structures are conventional alternative structure used in the same intended purpose, thereby providing structure as claimed.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace in view of Woods as applied to the claims above, and further in view of Gronnevik. The patent to Wallace in view of Woods teaches structure substantially as claimed as discussed above including structural members, the only difference being that the members are not foam filled plastic structures. However, the patent to Gronnevik teaches the use of providing foam filled plastic structural members to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Wallace in view of Woods to include foam filled structural members, as taught by Gronnevik since such structures are conventional alternative structures used in the same intended purpose, thereby providing structure as claimed.

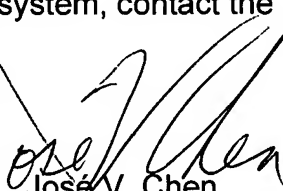
### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Titz, Blasio, Jeruzal, Mallak teach structure similar to applicant's.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José V. Chen whose telephone number is (571)272-6865. The examiner can normally be reached on m-f,m-th 5:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571)272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



José V. Chen  
Primary Examiner  
Art Unit 3637

Chen/jvc  
03-14-06